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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/656,752  | 09/04/2003  | Bradley Pesu         | 130-076             | 9059             |
| 7590 02/13/2006   |             |                      | EXAMINER            |                  |
| Ward & Oilvo<br>Suite 300<br>382 Springfield Avenue<br>Summit, NJ 07901 |             |                      | PAIK, SANG YEOP     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3742                |                  |

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/656,752

Applicant(s)

PESU ET AL.

Examiner

Sang Y. Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-12, 18-26, 28-33, 35-48, 51-62, 65 and 66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12, 18-26, 28-33, 35-48, 51-62, 65 and 66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 18 is objected to because of the following informalities: claim 18 depends on the cancelled claim. For the purposes of examining, claim 18 is treated as being dependent upon claim 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4, 6, 9-12, 18-20, 22-26, 28-33, 35-39, 42-46, and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo et al (US 6,236,807) in view of Yamamoto et al (US 4,968,487) or Tanner et al (US 6,627,857), and Millan (US 6,278,840) or Junkel (US 6,044,202).

Ruffolo shows an air freshener with a housing for holding a circuit having a light emitting diode, a heater disposed in a ceramic heater block for conducting or radiating heat, electrical connectors to receive current from a power source, a container made of a translucent material such as glass for holding a volatile substance, a decorative cover attached to the housing covering the housing and the container wherein a gap is formed between the cover and the housing, a wick inserted in the container and protruding through the heater block, the housing having a socket for holding the container and including a dome for venting out or facilitating the

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release of the heated substance (see Figure 4). However, Ruffolo does not show a plurality of light emitting diodes and the heater being a resistor.

Yamamoto shows an air freshener with a plurality of light sources such as lamps to be illuminated in the freshener. Tanner shows a plurality of light sources such as the light emitting diodes can be used to provide the light illumination. In view of Yamamoto and Tanner, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo with a plurality of light sources such as the light emitting diodes to illuminated in the air freshener to show various functions or indications of the freshener.

Millan and Junkel show an air freshener with a resistor as the heater for providing the necessary heat to vaporize the volatile substance. Junkel also shows a rectifier to rectify the AC current source to provide a constant DC to power the heater, and it further shows that the light emitting diode can be used as a night light.

In view of Millan and Junkel, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo with the resistor as the heater to alternatively provide the necessary power to heat the volatile substance, and further adapt with a rectifier to convert AC current to DC current to power an electrically resistive resistor.

With respect to the recitation of the aromatic substance or of a scented oil, Ruffolo shows the volatile substance as a fragrant liquid. And, while it does not explicitly show the hydrocarbon or scented oil, it would have been obvious to one of ordinary skill in the art to provide the aromatic substance to include hydrocarbon or any other materials to provide the desired scent. Furthermore, it is noted to the applicant that the aromatic substance, which is an

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article or material that is worked on by the apparatus, does not limit apparatus claim (see, also, MPEP 2115).

With respect to claims 6, 23 and 39, Yamamoto shows that an optical fibers or path can be utilized with a lamp light source to provide the illumination. In view of Yamamoto, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo with the fiber optical cables to further provide the illumination that would be more aesthetically appealing to a user.

4. Claims 3, 21, 47, 48, 53-55, 58-62, 65 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo in view of Yamamoto and Tanner, and Millan or Junkel as applied to claims 1, 2, 4, 6, 9-12, 18-20, 22-26, 28-33, 35-39, 42-46, and 50-52 above, and further in view of Wattson (US 3,373,341) or Roland et al (US 3,386,005).

Ruffolo in view of Yamamoto and Tanner, and Millan or Junkel shows the structure and method claimed except providing a shunt diode including a full-wave bridge rectifier.

Wattson or Roland shows that it is well known in the art to provide a shunt diode such as full-wave bridge rectifier connected in parallel with a load to provide a constant DC current source. In view of Wattson or Roland, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo, as modified by Yamamoto and Tanner, and Millan or Junkel, with a shunt diode such as a full-wave bridge rectifier to provide a constant DC power source from an AC power source to power an electrically resistive resistor and light emitting diode.

5. Claims 7, 8, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo in view of Yamamoto and Tanner, Millan or Junkel as applied to claims 1, 2, 4-6, 9-20, 22-39, 42-46, and 49-52 above, and further in view of Muderlak et al (US 5,175,791).

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Ruffolo in view of Yamamoto and Tanner, Millan or Junkel shows the structure and method claimed except providing an electrical thermal fuse.

Muderlak et al shows an air freshener with an electrical thermal fuse to prevent overheating. In view of Muderlak, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo, as modified by Yamamoto and Tanner, Millan or Junkel, with an electrical thermal fuse to prevent overheating to the heater circuit.

6. Claims 56 and 57 rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo in view of Yamamoto and Tanner, Millan, Junkel, Wattson and Roland as applied to claims 3, 21, 47, 48, 53-55, 58-62, 65 and 66 above, and further in view of Muderlak et al (US 5,175,791).

Ruffolo in view of Yamamoto and Tanner, Millan, Junkel, Wattson and Roland shows the structure and method claimed except providing an electrical thermal fuse.

Muderlak shows an air freshener with an electrical thermal fuse to prevent overheating. In view of Muderlak, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo, as modified by Yamamoto and Tanner, Millan, Junkel, Wattson and Roland, with an electrical thermal fuse to prevent overheating to the heater circuit.

### ***Response to Arguments***

7. Applicant's arguments filed 12/19/05 have been fully considered but they are not persuasive.

The applicant argues the claimed decorative cover is structured to perform differently from that of the decorative cover of Ruffolo. The applicant argues its cover made in a semi-cylindrical shape which is attached to the housing forming a gap there-between and covering a least of a portion of the container is shown by Ruffolo, and also argues that its cover is incapable

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of dissipating fragrance. It is noted that the applicant's claims do not recite such cover shape, and furthermore, Ruffolo shows a gap that is created between the housing and the cover as shown in Figure 4. The decorative cover also covers at least a portion of the container as the decorative cover sits above covering the container. While the applicant's decorative cover is incapable of dissipating fragrance as that of the Ruffolo's, all the recited elements are deemed met.

The applicant argues none of the references teach the recited plurality of LEDs to illuminate the decorative cover. This argument is not deemed persuasive since Ruffolo shows an LED as a light source, and Yamamoto as well as Tanner shows that it is known in the art to provide a plurality of light sources for an air freshener. It would have been obvious to adapt Ruffolo since having a plurality of light sources not only to enhance the aesthetic aspects but also to show different functions of the device. Tanner also shows a more specific use of such diodes wherein the diodes are used as the light source illuminate not only the container but its decorative cover as well.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y. Paik whose telephone number is 571-272-4783. The examiner can normally be reached on M-F (9:00-4:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Paik

Sang Y Paik  
Primary Examiner  
Art Unit 3742

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